

Remarks:

*Regarding the Examiner's proposal regarding heading "Brief Description of the Drawings":*

While Applicants thank the Examiner for the helpful suggestion regarding the insertion of a section heading into the specification, now with reference 37 CFR 1.77(b), that statute notes that the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. " However, the operative term, "should" does not amount to an express requirement, and the applicant respectfully declines to enter the suggested section headings.

*Regarding the rejection of claims 18-22 under 35 USC 103(a) in view of US 6322801 to Lorenzi et al. (hereinafter simply "Lorenzi"):*

The applicant respectfully traverses the Examiner's rejection of the indicated claims, particularly in view of the amended claims presented in this paper. In this paper, the claim 18 has been amended to include a further limitation which was *not* rejected by the Examiner with respect to claim 1 in view of the Lorenzi reference. Such is believed by the applicant to distinguish over the Lorenzi reference. Further claims 19 – 22 are depending claims, which depend from claim 18, now rewritten, and are similarly believed to distinguish over the Lorenzi reference and to also be allowable.

Accordingly, reconsideration of, and withdrawal of the outstanding rejection with respect to the rejected claims is sought.

*Regarding the rejection of claims 1-6, 9-14, 18-23 under 35 USC 103(a) in view of US 2002/0032135 to Verdrel-Lahaxe (hereinafter "Verdrel-Lahaxe") in view of US 2002/0107156 to Shaw (hereinafter simply "Shaw"):*

The applicant traverses the Examiner's rejection of the indicated claims in view of the combined references to Verdrel-Lahaxe and Shaw, in view of the presently amended claims presented in this paper. With respect to the present grounds of rejection, the Examiner indicates that claim 15 would be allowable over the combined references to Verdrel-Lahaxe and Shaw. In this paper, claim 15 has been canceled, and its limitations have been amended into claim 1, which is now believed to obviate the grounds of the instant rejection, as well as to render claim 1, and all dependent claims thereof patentable.

Accordingly, reconsideration of and withdrawal of the outstanding rejection with respect to the amended claims is solicited.

*Regarding the rejection of claims 1-6, 9-10, 14, 18-23 under 35 USC 103(a) in view of US 2002/0107156 to Shaw (hereinafter simply "Shaw"):*

The applicant traverses the Examiner's rejection of the indicated claims in view of the Shaw reference, particularly in view of the presently amended claims presented in this paper. With respect to the present grounds of rejection, the Examiner indicates that claim 15 would be allowable over the Shaw reference. In this paper, claim 15 has been canceled, and its limitations have been inserted into claim 1, which is now believed to obviate the grounds of the instant rejection, as well as to render claim 1, and all dependent claims thereof patentable.

Accordingly, reconsideration of and withdrawal of the outstanding rejection with respect to the amended claims is solicited.

*Regarding the rejection of claims 11-13 under 35 USC 103(a) in view of US 2002/0107156 to Shaw (hereinafter simply "Shaw"), in further view of US 2002/0032135 to Verdrel-Lahaxe (hereinafter "Verdrel-Lahaxe"):*

The applicant traverses the Examiner's rejection of the indicated claims in view of the combined references to Shaw and Verdrel-Lahaxe, especially in view of the presently amended claims presented in this paper. As noted above, in this paper the Examiner

indicates that claim 15 would be allowable over the combined references to Verdrel-Lahaxe and Shaw. In this paper, claim 15 has been canceled, and its limitations have been amended into claim 1, which is now believed to obviate the grounds of the instant rejection, as well as to render claim 1, and all dependent claims thereof patentable. The applicant notes that claims 11, 12 and 13 are all dependent claims which ultimately depends from (now allowable) claim 1.

Accordingly, reconsideration of and withdrawal of the outstanding rejection with respect to the amended claims is solicited.

*Regarding the rejection of claim 15 under 35 USC 103(a) in view of US 2002/0032135 to Verdrel-Lahaxe (hereinafter "Verdrel-Lahaxe") and US 2002/0107156 to Shaw (hereinafter simply "Shaw"), in further view of US 6412634 to Telesca (hereinafter "Telesca"):*

The applicant traverses the Examiner's rejection of the indicated claims in view of the combined references to Verdrel-Lahaxe and Shaw, in further view of Telesca. Although claim 15 has been canceled in this paper, its subject matter has been incorporated into claim one by amendments thus, the applicant considers the Examiner's rejection against (amended) claim 1.

Telesca is limited to providing a refillable container which comprises a plurality of personal care articles. Telesca however does not explicitly teach the utility of his refillable container for use in storing and dispensing a cleaning agent and loaded with a heat generating agent. Verdrel-Lahaxe, limited to cosmetic composition (which are preferably in gel form, but which may applied to a wipe) does not teach or indicate the desirability or necessity of providing a laden wipe in a sealed container to avoid hydration of Verdrel-Lahaxe's compositions. Hence, nothing in Verdrel-Lahaxe suggests any utility or desirability for it to be used in a refillable container according to Telesca.

Shaw discloses various "cleansing compositions" may be deposited onto a substrate, as Shaw describes in the following excerpt:

[0099] In a preferred embodiment, the present invention is an article comprising a water insoluble substrate with the cleansing composition described above deposited thereon. The water insoluble substrate comprises at least one layer, a substrate sheet to which the instant paste form cleansing composition is applied. In a preferred embodiment there is at least an additional substrate sheet which is joined to the substrate sheet to which the paste has been applied and which overlays the cleansing composition.

The gist of Shaw's invention is actually described in the following excerpt:

[0036] The present invention comprises a cleansing composition which comprises a specific surfactant system as described above. The present invention also comprises a cleansing article with comprises said cleansing composition releasably disposed on a water insoluble substrate.

Which, as seen is not concerned with "a substrate loaded with a cleaning agent and loaded with a heat generating agent which is selected from a dehydrated salt, other mineral or a mixture thereof, " as applicant's currently claimed invention requires. Shaw's concern regarding temperatures related to using his articles is summarized at the following excerpts:

[0091] B. VISCOSITY/TEMPERATURE RELATIONSHIP OF CLEANSING COMPOSITIONS

[0092] As disclosed above, the cleansing compositions of the instant invention are, preferably, "hot melt" surfactant systems. Hot melt surfactant systems have high viscosity at or around room temperature, and then melt (become substantially liquid) at higher temperatures. Such systems are advantageous during processing of a disposable, substantially dry (or dry to the touch) cleansing article since the surfactant system can be applied (e.g., coated, sprayed, extruded) to the substrate at a low viscosity (e.g., a liquid) at higher than room temperature, and then as the system cools down, it becomes a high viscosity paste or solid. In the present invention there is a required range of temperatures and viscosities at which these changes take place.

As seen therefrom, Shaw notes that specific temperature profiles are to be maintained based on the viscosity characteristics of his surfactant system, which he identifies as a key characteristic of his invention, as noted *supra*. This key characteristic is of primary concern to Shaw, who later extensively notes at paras. [0136] – [0141] a plurality of tests directed towards establishing both the "dynamic viscosity" as well as the "flow viscosity" characteristics of his compositions. Shaw exemplifies no composition which includes the zeolite, or any system whereby he can be generated or needs to be generated by the necessary inclusion of the zeolite. Indeed, Shaw only mention of a "zeolite" in an extensive, albeit a generic list of "optional components" found at paragraphs [0126] – [0129]. It is contended that a skilled artisan, considering Shaw, would necessarily be concerned with maintaining the required discuss the characteristics as well as maintaining the specific surfactant combinations which are clearly the *gist* of Shaw's invention. The Examiner's reliance upon Shaw appears to be unjustified as but-for the passing mention of "other zeolite" in paragraph [0128], Shaw appears to have know the relevance to the presently claimed invention. Furthermore, as Shaw is so flawed as a reference, it cannot be seen how Shaw could be considered as providing any motivation for to be considered with Telesca.

It is the applicant's view that the Examiner's reliance upon *Verdrel-Lahaxe* and Shaw, in further view of Telesca is a hindsight reconstruction, using applicant's claim as a template to reconstruct the invention by picking and choosing isolated disclosures from the prior art. This is impermissible under the law. For example, in *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992), the Federal Circuit stated:

"It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." (quoting *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1600)

The present rejection fits the court's description of what may not be done under § 103, as the Examiner has chosen to select amongst the limited disclosure provide by Saudan in order to piecemeal assembly the applicant's invention in spite of the facts as recited above that there is no progressive line of reasoning or suggestion provided by Verdrel-Lahaxe and Shaw, whereby Verdrel-Lahaxe and Shaw may individually be considered as relevant to the current claims, or whether Verdrel-Lahaxe and Shaw provide any basis for their combination with Telesca in order to produce currently claimed invention. The Examiner is reminded that in determining the differences between the prior art and the claims, the question under 35 USC §103 is not whether the differences themselves would have been obvious, but rather, whether the claimed invention as a whole would have been obvious. A prior art reference must be considered in its entirety, as a whole, including portions that would lead away from the claimed invention. (See MPEP, at §2143.02.)

Should the Examiner maintain the rejection in light of the amended claims and rebuttal arguments presented in this paper, then in the next communication, the Examiner is requested, as provided in MPEP Sec. 2144.03C, to provide documentary evidence supporting the Examiner's assertion that at the time of the applicant's invention, it would have been obvious to a person of ordinary skill in the art

Accordingly, reconsideration of and withdrawal of the outstanding rejection with respect to the amended claims is solicited.

**PETITION FOR A ONE-MONTH EXTENSION OF TIME**

Applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

**CONDITIONAL AUTHORIZATION FOR FEES**

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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14 Jan 2011  
Date:

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**CERTIFICATION OF TELEFAX TRANSMISSION:**

I hereby certify that this paper and all attachments thereto is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571 273-8300 on the date shown below:

Allyson Ross  
Printed Name: Allyson Ross Date: 14 Jan 2011

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